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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/063,476	04/26/2002	George D. Jamison	2036-003-03	1181

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/21/2003 *7*

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/063,476

Applicant(s)

JAMISON ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-23 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear whether "each attachment strip" are the same attachment strips as set forth in claim 4. If yes, this is a double inclusion.

Claim Rejections - 35 USC § 102

2. Claims 1, 4, 7-12, 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Rasmussen et al. (3141598). Rasmussen teaches a first top flap 23 with an attachment strip (the glue strip) and a tear strip 29, a second top flap 25 with an attachment strip (the glue strip) and a tear strip 31, a third top flap 24, and a fourth top flap 26. The attachment strip of the first top flap 23 is attachable to the third top flap 24, and the attachment strip of the second top flap 25 is attachable to the fourth top flap 26. The third and fourth flap are releasable when both tear strips are operated.

Regarding claim 4, the attachment strips are attached to both the third and fourth flaps in the closed position.

Regarding claim 16, Rasmussen teaches attaching the attachment strip on panels 23 to a third top flap, and attaching an attachment strip on panels 25 to a fourth top flap, and the removing of the tear strip from the top flap. Note that the claim does not require the steps to be taken sequentially.

3. Claims 2, and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmusen in view of Lane (5299734). Lane teaches a glue flap 40 and the container can be square. It would have been obvious to one of ordinary skill in the art to provide the glue flap in Rasmusen as taught by Lane to attach the sidewalls together.

It would have been obvious to one of ordinary skill in the art to provide a square box in Rasmusen as taught by Lane to provide the desired volume of the container.

4. Claims 6, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasmusen in view of Giacovas. Rasmusen meets all claimed limitations except for the double tape. Giacovas teaches that it is known in the art to provide the double tape as shown in 1A. It would have been obvious to one of ordinary skill in the art to provide the double tape in the modified container of Rasmusen as taught by Giacovas to provide an alternative attachment means.

5. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roccaforte et al. (5503328) in view of Jensen. Roccaforte teaches a first top flap with an attachment strip and a tear strip 534, a second top flap with an attachment strip and tear strip 528. The attachment strip of the first top flap is attachable to the second top flap as shown in Fig. 9 (at least at the end portion of flap 530). The tear strip 534 is operable to release the second top flap from the first top flap. Roccaforte meets all claimed limitations except for the container with a plurality of sides. Jensen teaches that it is known in the art to provide a plurality of sides. It would have been obvious to one of ordinary skill in the art to provide a plurality of sides in Roccaforte as taught by Jensen to provide additional space for holding.

It would have been obvious to one of ordinary skill in the art to provide a square shape in the combination of Roccaforte to provide the desired volume for the container.

Allowable Subject Matter

6. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai *T. Mai*
Primary Examiner
Art Unit 3727

May 18, 2003